

Department of Veterans Affairs

§ 3.1702

BURIAL BENEFITS: GENERAL

§ 3.1700 Types of VA burial benefits.

(a) *Burial benefits.* VA provides the following types of burial benefits, which are discussed in §§ 3.1700 through 3.1712:

(1) Burial allowance based on service-connected death;

(2) Burial allowance based on non-service-connected death;

(3) Burial allowance for a veteran who died while hospitalized by VA;

(4) Burial plot or interment allowance; and

(5) Reimbursement for transportation of remains.

(b) *Definition.* For purposes of this subpart, *burial* means all the legal methods of disposing of the remains of a deceased person, including, but not limited to, cremation, burial at sea, and medical school donation.

(c) *Cross references.* (1) Other benefits and services related to the memorialization or interment of a deceased veteran and certain survivors include the following:

(i) Burial in a national cemetery (see §§ 38.600 and 38.617 through 38.629 of this chapter);

(ii) Presidential memorial certificates (see 38 U.S.C. 112);

(iii) Burial flags (see § 1.10 of this chapter); and

(iv) Headstones or markers (see §§ 38.630 through 38.633 of this chapter).

(2) The provisions of §§ 3.1702 through 3.1711 do not apply to any of the programs listed in paragraph (c)(1) of this section.

§ 3.1701 Deceased veterans for whom VA may provide burial benefits.

For purposes of providing burial benefits under subpart B of this part, the term “veteran” means the same as provided in 38 U.S.C. 101(2). A veteran must be deceased, and burial benefits for that veteran must be authorized by a specific provision of law. For purposes of the non-service-connected burial allowance under 38 U.S.C. 2302, the term “veteran” includes a person who died during a period deemed to be active military, naval, or air service under §§ 3.6(b)(7), 3.7(m) and 3.7(o).

(Authority: 38 U.S.C. 101(2), 2302, 2303, 2307, 2308)

§ 3.1702 Persons who may receive burial benefits; priority of payments.

(a) *Automatic payments to eligible surviving spouse.* On or after July 7, 2014, VA will automatically pay a burial benefit to an eligible surviving spouse when VA is able to determine eligibility based on evidence of record as of the date of the veteran’s death. VA may grant additional burial benefits, including the plot or interment allowance, reimbursement for transportation, and the service-connected burial allowance under § 3.1704, to the surviving spouse or any other eligible person in accordance with paragraph (b) of this section and based on a claim described in § 3.1703.

(b) *Priority of payments—claims received on or after July 7, 2014.* (1) Except for claims a State, or an agency or political subdivision of a State, files under § 3.1707, Plot or interment allowance for burial in a State veterans cemetery or other cemetery, or § 3.1708, Burial of a veteran whose remains are unclaimed, VA will pay, upon the death of a veteran, the first living person to file of those listed below:

(i) His or her surviving spouse;

(ii) The survivor of a legal union between the deceased veteran and the survivor that is not covered by paragraph (b)(1)(i) of this section. For purposes of this paragraph, *legal union* means a formal relationship between the decedent and the survivor that

(A) Existed on the date of the veteran’s death,

(B) Was recognized under the law of the State in which the couple formalized the relationship, and

(C) Was evidenced by the State’s issuance of documentation memorializing the relationship;

(iii) His or her children, regardless of age;

(iv) His or her parents or the surviving parent; or

(v) The executor or administrator of the estate of the deceased veteran. If no executor or administrator has been appointed, VA may pay burial benefits based on a claim filed by a person acting for such estate who will distribute the burial benefits to the person or persons entitled to such distribution under the laws of the veteran’s last State of residence.